

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

4017-03001

**CERTIFICATE OF FILING**

Pursuant to 37 C.F.R. §1.8, I hereby certify that this correspondence is being electronically submitted to the U.S. Patent and Trademark Office website, www.uspto.gov, on December 10, 2008.

  
 Katherine Yee

Application Number

09/954,976

Filed

September 18, 2001

First Named Inventor

Naidoo, Surendra N., et al.

Art Unit

2621

Examiner

Tung T. Vo

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/90)

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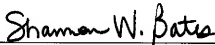
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attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34



Signature

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December 10, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below\*.

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\*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**REASONS FOR REQUESTING PRE-APPEAL BRIEF REVIEW**

Claims 1, 3-24, 26-31 and 47-61 are currently pending in the application and listed on pages 2-13 of the *Response to Office Action* filed by Applicants on June 17, 2008. In the *Final Office Action* dated September 12, 2008, all claims were rejected under 35 USC §103(a).

***I. Improper Rejections – No Prima Facie Case of Obviousness***

No *prima facie* case of obviousness has been established as to any of the pending claims at least because the references fail to teach or suggest all of the claimed limitations. In *KSR Int'l Co. v. Teleflex, Inc.*, the United States Supreme Court noted that an obviousness determination is based upon a “proper application of *Graham*,” which begins with a determination of whether the cited prior art contains all the elements of the contested claims. See *Graham v. John Deere Co. of Kansas City*, 383 U.S. at 22 (an obviousness determination begins with a finding that “the prior art as a whole in one form or another contains all” the elements of the claimed invention.). See *KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741-42 (2007).

***A. Claim Rejections in view of Tsumpes, alone or in combination with Lemons***

Claims 1, 3-19, 47-49 and 53-61 stand rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 6,442,241 B1 to *Tsumpes*, either alone or in view of U.S. Patent No. 6,504,479 B1 to *Lemons*. *Tsumpes* discloses a notification system 10 comprising a controller 12 that detects changes in the status of sensors 11 connected thereto (col. 4, lines 53-64). “The controller 12 communicates with a central monitoring station 13 through several *alternate* communication channels” (col. 4, lines 65-67) (emphasis added). “The controller 12 is programmed to format the sensor signal into DTMF or DDP and *select* the appropriate communications network or channel on which to transmit, depending on which communication channel is installed or chosen and which sensor and the type of sensor that is triggered” (col. 5, lines 35-40) (emphasis added). Thus, *Tsumpes* discloses communications networks that are used alternately rather than substantially simultaneously to deliver signals from the controller 12 to the central monitoring station 13. *Lemons* teaches an integrated security system 10 with first and second communication channels 36, 50 that are both connected between a facility 12 and a monitoring center 38. The first communication channel 36 is “primary”, and the second communication channel 50 is “backup” that is used only when the primary channel 36 “fails, is not available, or is interrupted.”

Applicants respectfully traverse the rejection of independent claim 1 at least because neither of the cited references teaches or suggests a security system with a first network and a second network through which a security gateway transmits notification of a *single alarm* condition to a

security system server substantially simultaneously, and wherein the security system server thereby receives two separate notifications of the *single alarm* condition from a security gateway according to claim 1. The *Final Office Action* indicates that *Tsumpes* teaches a wireless transceiver 19 and/or a radio frequency RF transceiver 20 to transmit the digital data packet DDP to the central monitoring station 13. However, even if *Tsumpes* teaches more than one network, *Tsumpes* also clearly teaches that such communication networks are used in the alternative rather than simultaneously to deliver signals from the controller 12 to the central monitoring station 13, according to the passages recited above. The *Final Office Action* also indicates that it would have been obvious to modify the teachings of *Tsumpes* into the security system of *Lemons* for transmitting the alarm condition simultaneously. However, *Lemons* teaches that its monitoring center 38 receives only a single alarm notification from the facility 12 through one of the two redundant communication channels 36, 50, and similarly, *Tsumpes* teaches that its central monitoring station 13 receives only one notification of a single alarm condition from the controller 12 along a selected one of multiple communication channels. Thus, independent claim 1 is patentable over these cited references.

Applicants respectfully traverse the rejection of independent claim 53 at least because neither of the cited references teaches or suggests “wherein the security gateway is configured to ... (3) notify the security system server through the second network of the loss of connectivity through the first network.” The *Final Office Action* relies on column 3, lines 55-63 of the *Tsumpes* reference to read on this element, but this passage describes a back-up alarm signal delivery over a back-up communications channel to insure that the alarm signal actually reaches the alarm central monitoring station. *Tsumpes* does not teach or suggest that the controller 12 is configured to send any notification through a backup communication channel to indicate to the central monitoring station 13 that there is a loss of connectivity through the first communication channel. The *Final Office Action* also relies on column 4, line 66 through column 5, line 16 of the *Lemons* reference to read on this element, but this passage describes a backup communications channel 50 can be used when the primary communications link 36 either fails, is not available, or is interrupted. *Lemons* makes no mention whatsoever that the facility 12 is configured to send any notification through the backup channel 50 to indicate to the monitoring center 38 that there is a loss of connectivity through the primary channel 36. Thus, independent claim 53 is patentable over these cited references.

Applicants respectfully traverse the rejection of independent claim 55 at least because neither of the cited references teaches or suggests “wherein the security gateway is further configured to notify the security system server in the event that connectivity with the security system server

through the first network is lost while the security gateway is disarmed and the security gateway is armed before connectivity with the security system server through the first network is restored.” The *Final Office Action* relies on column 3, lines 55-63 of the *Tsumpes* reference to read on these elements, but this passage only describes a back up alarm signal delivery over a back-up communications channel to insure that the alarm signal actually reaches the alarm central monitoring station. *Tsumpes* fails to make any suggestion that the controller 12 is ever disarmed or armed, or that the controller 12 is configured to send a notification to the central monitoring station 13 in the event that connectivity through a first communication channel is lost. The *Final Office Action* also relies on column 4, line 66 through column 5, line 16 of the *Lemons* reference to read on these elements, but this passage only describes a backup communications channel 50 that can be used when the primary communications link 36 either fails, is not available, or is interrupted. *Lemons* fails to make any suggestion that the facility 12 is ever disarmed or armed, or that the facility 12 is configured to send a notification to the monitoring center 38 in the event that connectivity through the primary channel 36 is lost. Thus, independent claim 55 is patentable over these cited references.

Applicants respectfully traverse the rejection of independent claim 57 given that the *Final Office Action* fails to set out a reasoned statement in support of this rejection. Accordingly, Applicants respectfully request withdrawal of this rejection.

**B. Claim Rejections in view of *Lemons* and *Menard***

In the *Final Office Action*, claims 57-61 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Lemons* in view of U.S. Patent No. 6,667,688 to Menard et al. (hereinafter *Menard*). *Menard* generally discloses an alarm system 10 that is operable to substantially simultaneously transmit alarm notifications along Path A to an end-user 30 and along Path B to a central station 20, as schematically depicted in Figure 1. The end-user 30 can then communicate directly with the central station 20 along Path C using a personal communication device 40 to either verify or cancel the alarm before an emergency agency is dispatched. Thus, *Menard* discloses a system having two communication Paths A, B along which an alarm condition may be simultaneously transmitted to two different destinations.

Applicants respectfully traverse the rejection of independent claim 57 at least because the combination of *Lemons* with *Menard* fails to disclose a monitoring center (end-user 30 of *Menard*) that is configured to **notify** the security system server (central station 20 of *Menard*) of the alarm condition according to independent claim 57. The *Menard* end-user 30 never **notifies** the central station 20 of an alarm condition. Instead, the alarm system 10 notifies the central station 20 of the alarm condition along

Path B, and the end-user 30 only communicates an alarm verification or cancellation to the central station 20 along Path C, not an alarm notification. The central station 20 only receives one alarm notification, and that is from the alarm station 10 along Path B. Thus, independent claim 57 is patentable over *Lemons* in view of *Menard*.

**C. Claim Rejections in view of *Lemons*, *Tsumpes* and *Kung***

In the *Final Office Action*, claims 20-24, 26-31 and 50-52 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Lemons* in view of *Tsumpes* and further in view of U.S. Patent No. 6,826,173 to Kung et al. (hereinafter *Kung*). The Patent Office takes the position that it would have been obvious to use the cable-headend and hybrid-fiber-coaxial network of *Kung* with the security system formed by combining *Lemons* and *Tsumpes*.

Applicants respectfully traverse the rejection of independent claim 20 at least because neither *Lemons* nor *Tsumpes* teaches or suggests a security system server that receives an alarm notification and another alarm notification from a security gateway through second and third networks, respectively, according to claim 20. The Patent Office relies upon *Kung* only to address the cable head-end and hybrid-fiber coaxial network features of claim 20. Thus, independent claim 20 is patentable over *Lemons* in view of *Tsumpes* and further in view of *Kung*.

**D. Claim Rejections in view of *Saylor*, *Kung* and *Tsumpes***

In the *Final Office Action*, claims 20-24, 26-31, 47-52 and 55-61 were rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 6,400,265 to Saylor et al. (hereinafter *Saylor*) in view of *Kung* and further in view of *Tsumpes*. The Patent Office acknowledges that *Saylor* fails to disclose a security system server that is configured to receive a notification of an alarm condition through a second network and to receive another notification of the alarm condition through a third network according to claim 20. However, the Patent Office takes the position that *Tsumpes* makes up for this lack of teaching of *Saylor*, and it would have been obvious to combine the teachings of *Saylor*, *Kung* and *Tsumpes* to render claim 20 obvious.

Applicants respectfully traverse the rejection of independent claim 20 at least because *Tsumpes* neither teaches nor suggests receiving a notification of an alarm condition and another notification of the same alarm condition at the central monitoring station 13 through two distinct networks. The Patent Office relies upon *Kung* only to address the cable head-end and hybrid-fiber coaxial network features of claim 20. Thus, independent claim 20 is patentably distinguishable over *Saylor* in view of *Tsumpes* and further in view of *Kung*.

The Patent Office appears to reject claims 55-61 as being anticipated by the *Saylor* reference

alone. Applicants respectfully traverse the rejection of independent claim 55 on the basis that *Saylor* fails to disclose a security gateway configured to notify the security system server in the event that connectivity with the security system server through the first network is lost while the security gateway is disarmed and the security gateway is armed before connectivity with the security system server through the first network is restored. Indeed, *Saylor* does not teach or suggest that the property components 110, 120, 112, 122, 114 would be capable of sending a notification to the central security server 130 in the event that connectivity between them is lost, regardless of whether the property components are disarmed or armed. Thus, claim 55 is patentable over *Saylor*.

Applicants respectfully traverse the rejection of independent claim 57 on the basis that *Saylor* fails to disclose a monitoring center that is configured to notify the security system server of the alarm condition. Instead, *Saylor* discloses the exact opposite, namely, that the central security server 130 (security system server) notifies the user 160 (monitoring center) of the alarm condition via communication modes 150, 152. The communication from the user 160 to the central security server 130 is only a response to the alarm, not a notification that the alarm condition has occurred. The central security server 130 only receives alarm notifications from the property components 110, 120, 112, 122, 114 and 124. Thus, claim 57 is patentable over *Saylor*.

## ***II. Preservation of Additional Grounds for Appeal***

In an effort to simplify the issues for consideration by the panel, Applicants have focused this discussion on the scope of the independent claims. However, Applicants reserve the right to pursue additional grounds for appeal should the panel elect to uphold the rejections.

## ***III. Summary***

Applicants submit that the grounds for rejection are improper at least because the cited references fail to teach or suggest all of the claimed limitations. Consequently, the references fail to render the pending claims obvious as required by 35 USC § 103(a). Accordingly, Applicants respectfully request that the rejections be withdrawn and the pending claims be allowed.

Respectfully submitted,

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